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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/539,988	06/17/2005	Janne Aaltonen	915-002.004	8304
4955 7590 02/15/2008 WARE FRESSOLA VAN DER SLUYS & ADOLPHSON, LLP BRADFORD GREEN, BUILDING 5 755 MAIN STREET, P O BOX 224 MONROE, CT 06468			EXAMINER HICKS, CHARLES N	
			ART UNIT 2623	PAPER NUMBER
			MAIL DATE 02/15/2008	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

**Application No.**

10/539,988

**Applicant(s)**

AALTONEN, JANNE

**Examiner**

Charles N. Hicks

**Art Unit**

2623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 17 June 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 33-57 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 33-57 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 June 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 6/17/2005.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

3. Claims 33-54 are rejected under 35 U.S.C. 103(a) as being unpatentable over Herz (US Patent No. 5,754,939), hereinafter referred to as Herz, in view of Hallford (US Patent No. 7,185,352 B2), hereinafter referred to as Hallford.

4. Regarding claim 33, Herz discloses a method of gathering information relating to consumption of broadcast content, the method comprising:

adding to said description an instruction to notify a given party of one of the group comprising intended reception of said content and consumption of said content (col. 17, lines 20-40);

and transmitting said description to a plurality of receiving stations (**col. 18, lines 1-18**).

However Herz fails to disclose preparing a description of the content. Hallford discloses preparing a description of the content (**fig. 4-5, col. 8, lines 1-25**).

Motivation to combine the references is due to the fact that each reference combines and gathers information provided in a broadcast stream from clients that receive the broadcast. The invention would have been obvious to one of ordinary skill in the art at the time of the invention.

5. Regarding claim 34, Herz discloses a method comprising: preparing a schedule for broadcasting content; and including said description in the schedule; wherein transmitting said description to the plurality of receiving stations comprises transmitting said schedule to the plurality of receiving stations (**col. 18, lines 1-35**).

6. Regarding claim 35, Herz discloses a method comprising adding to said description an instruction to notify said given party of intended continued reception of said content (**col. 17, lines 50-68**).

7. Regarding claim 36, Herz discloses a method comprising adding to said description an instruction to notify said given party of intended cessation of reception of content (**col. 17, lines 50-68**).

8. Regarding claim 37, Hallford discloses a method comprising broadcasting said content if a receiving station notifies said given party that it intends to receive said content (**fig. 4, col. 7, lines 35-68**).

9. Regarding claim 38, Hallford discloses a method comprising receiving notifications from receiving stations (**fig. 4, col. 7, lines 35-68**).

10. Regarding claim 39, Herz discloses a method comprising counting a number of receiving stations which notify said given party that they intend to receive said content (**col. 12, lines 5-40**).

11. Regarding claim 40, Herz disclose a method comprising counting a number of receiving stations which notify said given party that they are receiving said content (**col. 12, lines 5-40**).

12. Regarding claim 41, Herz discloses a method comprising preparing said description of said content according to the Session Description Protocol (**fig. 2, col. 32, lines 6-24**)

13. Regarding claim 42, Herz discloses a method further comprising identifying a region from which said notification is received and transmitting said item of service in said region (**col. 29, lines 60-68, col. 30, lines 1-14**).

14. Regarding claim 43, Herz discloses a method further comprising identifying a region from which a notification is received and broadcasting said content in said region **(col. 30, lines 15-27)**.

15. Regarding claim 44, Herz discloses a method further comprising identifying a region from which no notification is received and not broadcasting said content in said region **(col. 30, lines 1-27 wherein in the interactive system, user requested information is sent when user profile verified and updated)**.

16. Regarding claim 45, Herz discloses a method, in a receiving station, of providing information relating to consumption of broadcast content, the method comprising:

determining whether an instruction has been added to said description, said instruction being to notify a given party of one of the group comprising intended reception of said content and consumption of the said content **(col. 17, lines 20-40)**;

and if determined that said instruction is added to said description, then transmitting, to said given party, a notification of intended reception of said content **(col. 18, lines 1-18)**.

However Herz fails to disclose receiving a description of said content. Hallford discloses receiving a description of said content **(fig. 4-5, col. 8, lines 1-25)**.

Motivation to combine the references is due to the fact that each reference combines and gathers information provided in a broadcast stream from clients that receive the

broadcast. The invention would have been obvious to one of ordinary skill in the art at the time of the invention.

17. Regarding claim 46, Herz discloses a method comprising: receiving a schedule of broadcasting content, said schedule including the description of said content (**col. 29, lines 1-40**).

18. Regarding claim 47, Herz discloses a method comprising: receiving said content (**col. 29, lines 41-68**).

19. Regarding claim 48, Herz discloses a method further comprising: transmitting, to said given party, a notification of intended continued reception of said content (**col. 30, lines 15-27** *wherein in the interactive system, interaction is needed to continue receiving content*).

20. Regarding claim 49, Herz discloses a method further comprising: transmitting, to said given party, a notification of intended cessation of reception of said content (**col. 30, lines 15-27** *wherein in the interactive system, interaction is needed to discontinue receiving content*).

21. Regarding claim 50, Herz discloses a method of controlling a broadcasting network, said broadcasting network including a base station for broadcasting content in a predetermined region, said method comprising:

counting a number of notifications of intended reception of broadcast content received from receiving stations located in said predetermined region and if said number of notifications equals or exceeds a predetermined number, broadcasting said content in said predetermined region (**fig. 2-5, col. 30, lines 15-27**).

22. Regarding claim 51, Herz discloses a method further comprising:

adding to said description an instruction to notify a given party of intended reception of said content (**col. 17, lines 20-40**);

and transmitting said description to a plurality of receiving stations (**col. 18, lines 1-18**).

However Herz fails to disclose preparing a description of broadcast content. Hallford discloses preparing a description of broadcast content (**fig. 4-5, col. 8, lines 1-25**). Motivation to combine the references is due to the fact that each reference combines and gathers information provided in a broadcast stream from clients that receive the broadcast. The invention would have been obvious to one of ordinary skill in the art at the time of the invention.



23. Regarding claim 52, Herz discloses a method further comprising: if said number of notifications falls below said predetermined number, stopping broadcast of said content in said predetermined region (**col. 17, lines 1-18**).

24. Regarding claim 53, Herz discloses a computer program product storing a computer program comprising instructions which, when executed by data processing apparatus, causes said data processing apparatus to perform the method (**fig. 2-5, col. 6, lines 1-33**).

25. Regarding claim 54, Herz discloses an apparatus for gathering information relating to consumption of broadcast content, the apparatus comprising:

adding to said description an instruction to notify a given party of one of a group comprising intended reception of said content and consumption of said content (**col. 17, lines 20-40**);

and a transmitter for transmitting said description to a plurality of receiving stations (**col. 18, lines 1-18**).

However Herz fails to disclose a processor for preparing a description of the content. Hallford discloses a processor for preparing a description of the content (**fig. 3-5, col. 8, lines 1-25**). Motivation to combine the references is due to the fact that each reference combines and gathers information provided in a broadcast stream from clients that receive the broadcast. The invention would have been obvious to one of ordinary skill in the art at the time of the invention.

***Claim Rejections - 35 USC § 102***

26. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

27. Claims 55-57 are rejected under 35 U.S.C. 102(b) as being anticipated by Herz.

28. Regarding claim 55, Herz discloses an apparatus for controlling a broadcasting network, said broadcasting network including a content provider, a network element for routing content and a base station for broadcasting content in a predetermined region, said apparatus comprising:

a receiver for receiving, from receiving station, a notification of intended reception of broadcast content (**fig. 2-5, col. 38, lines 35-68**);

a processor for determining whether said notification is received from a receiving station located in said predetermined region and transmitter for instructing said network element to route said content to said base station for transmission in said predetermined region (**fig. 2-7, col. 39, lines 11-60**).

29. Regarding claim 56, Herz discloses a receiving station for providing information relating to consumption of broadcast content, the receiving station comprising:

a receiver for receiving a description of said content (**fig. 2-5, col. 38, lines 35-68**);

a processor for determining whether an instruction has been added to said description, said instruction being to notify a given party of one of a group comprising intended reception of said content and consumption of said content (**fig. 2-7, col. 39, lines 11-60**);

and a transmitter for transmitting, to said given party, a notification of intended reception of said content if said instruction is added to said description (**col. 18, lines 1-18**).

30. Regarding claim 57, Herz discloses a system for presenting program schedule data on a display of receiving station, said system comprising at least a schedule data for broadcasting content, the schedule data being organized to include at least partly an instruction to notify a given party of consumption of content (**fig. 2-10, col. 28, lines 48-68, col. 29, lines 1-40**).

### ***Claim Rejections - 35 USC § 101***

31. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claim 53 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. A computer program requires computer readable memory as well as computer executable code in order to allow functionality.

### ***Conclusion***

32. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Grauch (US 2005/0235318 A1) discloses a method for tracking network use. Shlack (US Patent No. 7,260,823 B2) discloses profiling and identification of television viewers. Cannon (US Patent No. 6,286,005 B1) discloses a method and apparatus for analyzing data and advertising optimization.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles N. Hicks whose telephone number is 571-272-3010. The examiner can normally be reached on M-F 7:30AM to 5PM.

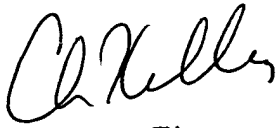
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Kelley can be reached on 571-272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Application/Control Number:  
10/539,988  
Art Unit: 2623

Page 12

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CNH

  
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